UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,448	01/27/2004	Christian Bertin	127524	8578

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EXAMINER .
IDOWU, OLUGBENGA O

ART UNIT	PAPER NUMBER
2621	

DATE MAILED: 12/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	10/765,448	BERTIN ET AL.
	Examiner	Art Unit	
	Olugbenga O. Idowu	2621	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>27 January 2004</u>.
2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-16</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) <u>1-16</u> is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on <u>27 January 2004</u> is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a) ☒ All   b) ☐ Some * c) ☐ None of:
      1. ☒ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____.
      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>9/27/04</u>.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1.   This office action is in response to application number: 10/765448, filed on
1/27/2004. Claims 1-16 are pending and have been examined.

Priority

2.   Acknowledgment is made of applicant's claim for foreign priority under 35
U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No.
10/765448, filed on 1/27/04.

Drawings

3.   The drawings are objected to because Fig. 2 is in a foreign language. Corrected
drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office
action to avoid abandonment of the application. Any amended replacement drawing
sheet should include all of the figures appearing on the immediate prior version of the
sheet, even if only one figure is being amended. The figure or figure number of an
amended drawing should not be labeled as "amended." If a drawing figure is to be
canceled, the appropriate figure must be removed from the replacement sheet, and
where necessary, the remaining figures must be renumbered and appropriate changes
made to the brief description of the several views of the drawings for consistency.
Additional replacement sheets may be necessary to show the renumbering of the
remaining figures. Each drawing sheet submitted after the filing date of an application
must be labeled in the top margin as either "Replacement Sheet" or "New Sheet"

pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the

applicant will be notified and informed of any required corrective action in the next Office

action. The objection to the drawings will not be held in abeyance.

Specification

4.   Applicant is reminded of the proper language and format for an abstract of the
disclosure.

The abstract should be in narrative form and generally limited to a single
paragraph on a separate sheet within the range of 50 to 150 words. It is important that
the abstract not exceed 150 words in length since the space provided for the abstract
on the computer tape used by the printer is limited. The form and legal phraseology
often used in patent claims, such as "means" and "said," should be avoided. The
abstract should describe the disclosure sufficiently to assist readers in deciding whether
there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information
given in the title. It should avoid using phrases which can be implied, such as, "The
disclosure concerns," "The disclosure defined by this invention," "The disclosure
describes," etc.

5.   The disclosure is objected to because of the following informalities: [0044] line 1,

"film" should be changed to --file--. [0103] refers to Fig. 4 100 and [0105] refers to Fig. 4

102 which are not available.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

7.   The factual inquiries set forth in *Graham* v. *John Deere.Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating
obviousness or nonobviousness.

8.   Claim 1- 10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Carden, Patent #: 6 996 627 B1 in view of Yamato, Publication #:

2002/0127000A1.

9.   As per **claim 1**, Carden teaches: A method of recording audiovisual contents

broadcast according to a schedule (Fig. 1, the system is configured to periodically

deliver program information items 102 to a client computer 100, col. 3, line 67 – col. 4,

line 1), the method including:

        a step of selecting from an access terminal (Fig. 1, 100, client computer)

an audiovisual content to be recorded (the media items 114 are stored on the media

server 112 until requested by a user at the client computer, col. 4, lines 36 - 37), the

content being associated with a broadcast date and time (the program information

server 104(Fig. 1) determines whether the expiration time identified in the headline

expiration data field 238 of the currently selected headline element 204(found in Fig. 2,

202) is later than the present time, col. 9, lines 8 -12), and

        a step of the access terminal receiving a record file (Fig. 2, 202) of the

selected audiovisual content (Fig. 4, 400, starting at a step 400, the client computer 100

initiates a request to the program information server 104 for the most recent program

information item 202, col. 8, lines 17 -19), said file containing information identifying the

audiovisual content and the scheduled date and time for broadcasting it (each of the

program elements 202 includes a program identification data field 208. The program

identification data field 208 contains a program identifier that uniquely identifies the

program element 202, col. 6, lines 40 – 44, the expiration time identified in the headline

expiration data field 238 (which is in 202) of the currently selected headline element 204

is later than the present time, col. 9, lines 8 -12), and

a step of updating the record file, especially in the event of modification of

the audiovisual content selected by the presentation server (Further, the program

elements 202 also include a media item location data field 220. The media item location

data field 220 identifies the location of additional information (Fig. 1, 104) that may be

delivered to the client pursuant to a client request, col. 6, lines 58 - 62).

The record file is referred to in Carden as Fig. 2, 202. 202 is initially in the client

computer 100. The update process or "receiving the record file" is described in Fig. 4

when the elements in 202 are updated.

Carden does not teach: the method further comprising: a preliminary step of the

access terminal selecting a set of contents having a common topic, said set

being offered by an audiovisual content presentation server, which then

executes the selection of the audiovisual content automatically on the basis of

the selected set.

In a relevant field of endeavor Yamato teaches a system that records from an EPG.

Yamamoto also teaches the method further comprising: a preliminary step of the access

terminal selecting a set of contents having a common topic (In addition, the device 100

searches the data of the EPG for user's favorite programs by using keywords or types

which are established in advance by the user, [0169], lines 6 -9), said set being offered

by an audiovisual content presentation server (Carden; Fig. 1, 104) which then executes

the selection of the audiovisual content automatically on the basis of the selected set

(extracts the searched programs, and automatically records the extracted programs,

[0169], lines 9 -10).

Therefore, It would have been obvious to one of ordinary skill in the art at the time of the

invention to include a preliminary selection step as taught by Yamato in the method of

selecting audio visual content to be recorded as described in Carden for the following

advantages of: grouping similar programs provides the viewer with an intuitive and

informative display; it also creates an avenue for recording a variety of shows to be

watched by the viewer.

10.   As per **claim 2**, Carden teaches: a method according to claim 1 of recording

audiovisual contents broadcast according to a schedule, wherein the updating step is

executed if the date and/or the time of broadcasting the selected audiovisual content is

modified (at the decision step 422, the program information server 104 determines

whether any changes have been made by the content provider with respect to one of

the program elements 202. If changes have been made, the program information server

104 proceeds to a step 424(update step), col. 10, lines 3- 7).

11.   As per **claim 3**, Carden teaches: a method according to claim 1 of recording

audiovisual contents broadcast according to a schedule, wherein the updating step is

executed if the selection of the audiovisual content selected by the presentation server

is modified (at the decision step 422, the program information server 104 determines

whether any changes have been made by the content provider with respect to one of

the program elements 202. If changes have been made, the program information server

104 proceeds to a step 424(update step), col. 10, lines 3- 7).

12. As per **claim 4**, Carden Teaches: a method according to claim 1 of recording

audiovisual contents broadcast according to a schedule, wherein the updating step is

executed if the selected audiovisual content is replaced by another audiovisual content

(at the decision step 422, the program information server 104 determines whether any

changes have been made by the content provider with respect to an of the program

elements 202. If changes have been made, the program information server 104

proceeds to a step 424(update step), col. 10, lines 3- 7) or is cancelled.

13. As per **claim 5**, Carden teaches: a method according to claim 1 of recording

audiovisual contents broadcast according to a schedule, wherein the record file includes

at least one field marked by a markup and defining information identifying the

corresponding audiovisual content, associated with data describing said content (each

of the program elements 202 includes a program identification data field 208. The

program identification data field 208 contains a program identifier that uniquely identifies

the program element 202, col. 6, lines 40 – 44).

14. As per **claim 6**, Carden teaches: a method according to claim 1 of recording

audiovisual contents broadcast according to a schedule, wherein the record file includes

at least one field marked by a markup and defining, for a given audiovisual content in

the same file, a content identifier associated with a content already recorded in the

storage means of the access terminal (the program data structure 200 contains some of

the program information items 102 as well as identifies the location of other program

information items 102, col. 6, lines 19 - 22).

15.   As per **claim 7**, Carden teaches: a method according to claim 1 of recording

audiovisual contents broadcast according to a schedule, wherein the syntax of files

exchanged between the access terminal and the server is defined by an unique data

structure schema, in particular an XML schema (the program information items 102 may

include the following types of data formats: text animation... and Extensible markup

Language (XML), col. 4, lines 9 -14).

16.   As per **claim 8**, Carden teaches: a method according to claim 1 of recording

audiovisual contents broadcast according to a schedule, wherein the presentation

server comprises means for identifying a terminal that has selected an audiovisual

content (optionally, the program selection server 118 can request the user to provide

additional information that is to be associated with one or more of the program

elements, col. 12, lines 64-67) and the updating step includes notifying a modification

relating to said audiovisual content as soon as the presentation server is notified of said

modification (at the decision step 422, the program information server 104 determines

whether any changes have been made by the content provider with respect to an of

the program elements 202. If changes have been made, the program information server

104 proceeds to a step 424(update step), col. 10, lines 3- 7).

17.   As per **claim 9**, Carden teaches: a method according to claim 1 of recording

audiovisual contents broadcast according to a schedule, wherein the record file includes

the address of an update server (Fig. 1, 104) for generating a request to update the

record file sent by the terminal to the update server (Further, the program elements 202

also include a media item location data field 220. The media item location data field 220

identifies the location of additional information that may be delivered to the client

pursuant to a client request, col. 6, lines 58 - 62).

18.   As per **claim 10**, Carden teaches: a method according to claim 9 of recording

audiovisual contents broadcast according to a schedule, wherein the request is an

HTTP request (The media item location data field 220 identifies the location of

additional information that may be delivered to the client pursuant to a client request...

data field 220 contains an uniform resource locator (URL), col. 6, lines 58 - 64).

19.   As per **claim 13**, Carden teaches a method according to claim 9 of recording

audiovisual contents broadcast according to a schedule, wherein the record file includes

a field marked by a markup and defining the address of the update server (Further, the

program elements 202 also include a media item location data field 220. The media

item location data field 220 identifies the location of additional information that may be

delivered to the client pursuant to a client request, col. 6, lines 58 - 62).

20.   Claim 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Carden in view of Yamato as applied to claim 9 above, and further in view of Ikeda,

Publication #: 2003/0159151 A1.

21.   As per **claim 11,** Carden teaches a system that updates the information of a

preset recording based on changes made from the program provider and a record file

that includes the address of the update server. However, the modified device of Carden

does not teach a system that updates the recorder frequently as the program to be

recorded approaches.

In a relevant field of endeavor, Ikeda teaches a system that records a program based

on pre-selected time slots using a DVR. Ikeda also teaches: wherein the terminal sends

the request to update the record file periodically up to the date and time scheduled for

broadcasting the selected audiovisual content (at the program start time of a

preselected program to be recorded or the current time approaches a specified time (for

example, one minute before the program start time)[0095]... server 40 modifies the

program start time information in the program preselection information stored in

database 41, [0097], when the broadcasting opening time of the preselected program to

be recorded closes in, the server 40 outputs a recording start command to the terminal

device 10 through the network based on the accepted program preselection information to cause recording of the program to be started,[103],).

Therefore, It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the system, in the modified system of Carden, that just updates the recording time once with Ikeda that updates the recording time as you get close to the broadcast time. The system is advantageous for improving the accuracy of recording relevant information and saving space on the recording device.

22.   As per **claim 12**, Carden teaches: A method according to claim 9 of recording audiovisual contents broadcast according to a schedule, wherein the terminal sends the request to update the record file increasingly often as the date and time for recording the selected audiovisual content approaches (at the program start time of a preselected program to be recorded or the current time approaches a specified time(for example, one minute before the program start time)[0095],... server 40 modifies the program start time information in the program preselection information stored in database 41, [0097], when the broadcasting opening time of the preselected program to be recorded closes in, the server 40 outputs a recording start command to the terminal device 10 through the network based on the accepted program preselection information to cause recording of the program to be started,[103],).

23.   Claims 14 - 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Carden in view of Yamato as applied to claim 1 above, and further in view of Connelly,

patent #: 7 055 165.

As per **claim 14**, the combination of Carden and Yamato teaches: a system for

recording audiovisual contents broadcast according to a schedule, adapted to execute

a method according to claim 1, wherein the system comprises a presentation server

(Carden; Fig. 1, 104) for presenting said audiovisual contents (Yamato; request to the

program information server 104 for the most recent program information item 202, col.

8, lines 17 -19) and an access terminal comprising means for selecting a set of

contents offered by the presentation server and having a common topic (Carden; In

addition, the device 100 searches the data of the EPG for user's favorite programs by

using keywords or types which are established in advance by the user, [0169], lines 6 -

9), on the basis of the set that has been selected in order to supply to the access

terminal a record file of the selected audiovisual content (Carden; Fig. 4, 400, starting

at a step 400, the client computer 100 initiates a request to the program information

server 104 for the most recent program information item 202, col. 8, lines 17 -19), said

file containing information identifying the audiovisual content and the date and time

scheduled for broadcasting it (Carden; each of the program elements 202 includes a

program identification data field 208. The program identification data field 208 contains

a program identifier that uniquely identifies the program element 202, col. 6, lines 40 –

44, the expiration time identified in the headline expiration data field 238 (which is in

202) of the currently selected headline element 204 is later than the present time, col.

9, lines 8 -12).

The combination of Carden and Yamato does not teach: the selection of at least one

audiovisual content being then automatically executed by the presentation server.

In a relevant field of endeavor, Connelly teaches of distributing audio visual content to

users. Connelly also teaches: the selection of at least one audiovisual content being

then automatically executed by the presentation server (in one embodiment, the

broadcast operations center then selects pieces of content to broadcast based on the

client demand feedback data, col. 10, lines 43 - 45),

Therefore, It would have been obvious to one of ordinary skill in the art at the time of

the invention to make the server, in the combination of Carden and Yamato, capable of

making selections by using user data for the following advantages: this feedback

system helps provide a well rounded television service tailored for the viewer.

24.   As per **claim 15**: an update server adapted to execute a method according to

claim 1, wherein the server includes means for selecting at least one audiovisual

content and for transmitting a record file of the selected audiovisual content (Connelly;

in one embodiment, the broadcast operations center then selects pieces of content to

broadcast based on the client demand feedback data, col. 10, lines 43 - 45), said file

containing information identifying the audiovisual content and the date and time

scheduled for broadcasting it (Carden; each of the program elements 202 includes a

program identification data field 208. The program identification data field 208 contains

a program identifier that uniquely identifies the program element 202, col. 6, lines 40 –

44, the expiration time identified in the headline expiration data field 238 (which is in

202) of the currently selected headline element 204 is later than the present time, col. 9,

lines 8 -12), on the basis of a set of contents having a common topic selected from the

access terminal, and means for updating the record file, in particular if the selected

audiovisual content is modified (Further, the program elements 202 also include a

media item location data field 220. The media item location data field 220 identifies the

location of additional information that may be delivered to the client pursuant to a client

request, col. 6, lines 58 - 62).

25.   As per **claim 16,** an access terminal adapted to execute a method according to

claim 1, comprising means for receiving a record file(Cardin; Fig. 2, 202) of a selected

audiovisual content (Cardin; Fig. 4, 400, starting at a step 400, the client computer 100

initiates a request to the program information server 104 for the most recent program

information item 202, col. 8, lines 17 -19), said file containing information identifying the

audiovisual content and the date and time scheduled for broadcasting it (Cardin; each of

the program elements 202 includes a program identification data field 208. The program

identification data field 208 contains a program identifier that uniquely identifies the

program element 202, col. 6, lines 40 – 44, the expiration time identified in the headline

expiration data field 238 (which is in 202) of the currently selected headline element 204

is later than the present time, col. 9, lines 8 -12), which access terminal further

comprises means for selecting beforehand a set of contents offered by an audiovisual

content presentation server(Fig. 1, 104) and having a common topic (In addition, the

device 100 searches the data of the EPG for user's favorite programs by using

keywords or types which are established in advance by the user, [0169], lines 6 -9), the

selection of the audiovisual content being then automatically executed by the

presentation server, on the basis of the set selected (Connelly; in one embodiment, the

broadcast operations center then selects pieces of content to broadcast based on the

client demand feedback data, col. 10, lines 43 - 45), and means for receiving update

data for the record file, in particular if the selected audiovisual content is modified (Fig.

4, 400, starting at a step 400, the client computer 100 initiates a request to the program

information server 104 for the most recent program information item 202, col. 8, lines

17 –19).

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Olugbenga O. Idowu whose telephone number is 571

270 1450. The examiner can normally be reached on Monday to Friday, 7am -5pm Est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Patrick Edourd can be reached on 571 272 7603. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

O.I. 12/6/06

PATRICK N. EDOUARD
SUPERVISORY PATENT EXAMINER